

Exhibit D

Julianne VanNorman

From: Adrian Sawyer <sawyer@sawyerlabar.com>
Sent: Friday, June 25, 2021 11:35 AM
To: Ian McFarland
Cc: David Cialkowski; Blaine Finley; Evelyn Li
Subject: Re: In Re Pork Antitrust Litigation | Pacific Agri-Products, Inc. | Subpoena

EXTERNAL EMAIL: Use caution with requests, links, and attachments.

Ian,

Thank you for sending this. With apologies, can we push to early next week? I was hired in a new case this week with a motion deadline today, and am kind of swamped with that. Tuesday afternoon would work for me if you have some time that day.

Thanks,

Adrian

Adrian Sawyer
Sawyer & Labar LLP
1700 Montgomery St., Suite 108
San Francisco, CA 94111
O 415.262.3820
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From: Ian McFarland <Ian.McFarland@zimmreed.com>
Sent: Friday, June 25, 2021 7:38:57 AM
To: Adrian Sawyer <sawyer@sawyerlabar.com>
Cc: David Cialkowski <David.Cialkowski@zimmreed.com>; Blaine Finley <bfinley@cuneolaw.com>; Evelyn Li <evelyn@cuneolaw.com>
Subject: In Re Pork Antitrust Litigation | Pacific Agri-Products, Inc. | Subpoena

Hello Adrian—

Thank you for taking the time to meet with us again last week. I write to address two issues you had raised on behalf of your client.

1. I have attached to this email an amended subpoena designating a place of compliance within 100 miles of your client: Cotchett, Pitre & McCarthy LLP, 840 Malcolm Road, Ste 840, Burlingame, CA 94010. We understand, however, that any production by your client will be made via electronic means.
2. Our group is unfamiliar with the term “prime” distributor, but our group expects numerous “broadline” distributors to make transactional data productions in this case. Among other distributors, US Foods and Sysco made transactional data productions in *Packaged Seafood*, and we expect that similar transactional datasets will be forthcoming in this matter.

We look forward to meeting with you again today.

Best regards,

Ian

IAN MCFARLAND | ASSOCIATE

ZIMMERMAN REED LLP

1100 IDS Center, 80 South 8th Street
Minneapolis, MN 55402 +612.341.0400

Minneapolis | Los Angeles | Phoenix

If you received this e-mail in error, please notify the sender immediately and delete.

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UNITED STATES DISTRICT COURT

for the
District of Minnesota

In Re Pork Antitrust Litigation

Plaintiff

v.

Defendant

Civil Action No. 18-cv-1776 (JRT/HB)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Pacific Agri-Products, Inc.,
c/o Registered Agent - James Monfredini, 477 Forbes Blvd., South San Francisco, CA 94080

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

Place: Cotchett Pitre & McCarthy LLP 840 Malcolm Road, Ste 840, Burlingame, CA 94010	Date and Time: 07/23/2021 12:00 pm
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☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 06/23/2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk/s/ Anthony M. Carter*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____

Commerical and Institutional Indirect Purchaser Plaintiffs, who issues or requests this subpoena, are:

Anthony M. Carter, Tostrud Law Group, P.C., 1925 Century Park East, Suite 2100, Los Angeles, CA
90067 Tel: (310) 278-2600 acarter@tostrudlaw.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

ATTACHMENT A

1. All documents and data reflecting your analysis of competition in the procurement and sale of Pork, including but not limited to:

- a) Assessments and analyses of available Pork suppliers, whether you purchased from those suppliers or not;
- b) Assessments and analyses of Pork resellers with which you compete, including but not limited to other wholesale distributors and mass merchandisers; and
- c) Assessments and analyses of your (actual or prospective) customers, including, if available, analyses by customer type, location within the United States, or any other dimension along which you segment customers.

2. For the period from January 1, 2002, to the present, please provide transactional data sufficient to show the following information related to your purchases of Pork:

- a) purchase order number;
- b) date of purchase;
- c) internal product identification number;
- d) manufacturer product code (e.g., UPC, SKU, or other identifying code associated with the item);
- e) manufacturer name;
- f) manufacturer identification number;
- g) brand name (including private label brands);
- h) brand identification number (including private label brands);
- i) indicator of private label brands;

- j) product description;
- k) the grade, cut, product form, and/or type of Pork;
- l) quantity purchased;
- m) any data field related to product types or product categories;
- n) quantity measure (e.g., live weight, carcass weight, retail weight, etc.);
- o) unit of measurement for quantity purchased;
- p) unit converter (if applicable);
- q) transaction type (e.g., purchase, return, exchange);
- r) contract number under which the purchase was made (if applicable);
- s) all pricing and fee information related to the purchase, including unit price, freight, tax, and similar charges (USD);
- t) unit of measure for any price fields (e.g., dollar per carcass weight pound);
- u) any purchase order-level chargebacks, discounts, rebates, credits, freight allowances, free goods and/or services;
- v) gross purchase amount (USD);
- w) net purchase amount (USD);
- x) Any data fields related to supplier type (e.g., processor, distributor, etc.);
- y) supplier identification/vendor number;
- z) supplier name and address;
- aa) ship-to entity identification number;
- bb) ship-to entity name;
- cc) ship-to entity address;

- dd) bill-to entity identification number;
- ee) bill-to entity name;
- ff) bill-to entity address;
- gg) bill-to entity phone number; and
- hh) bill-to entity email address.

3. For the period from January 1, 2002, to the present, please provide documents and data sufficient to show the following information related to your purchases of Pork:

- a) Contracting methods, practices, policies, or strategies relating to Pork, including but not limited to:
 - i. all RFPs or bid documents issued by any Pork supplier;
 - ii. quotes, bids, bid announcements, or proposals issued by you to or relating to any Pork supplier;
 - iii. communications relating to negotiations with suppliers related to price and non-price terms of contracts;
 - iv. all agreed upon price and non-price terms including delivery schedules, quotas, or required purchases; and
 - v. contracts consummated with suppliers including all amendments, appendices, or addendums to those contracts.
- b) Data relating to any off-invoice financial transactions between you and Pork suppliers (for each item, indicate the date of the transaction, type of transaction, supplier, and USD amount), including but not limited to:
 - i. chargebacks, discounts, rebates, credits, freight allowances, free goods and/or services, cooperative marketing funds, advertising

funds, promotional funds or allowances, slotting allowances; and

- ii. any other marketing assistance, support, or other off-invoice financial incentives received.

4. For the period from January 1, 2002, to the present, please provide transactional data sufficient to show the following information related to your sales of Pork and prepared foods that include Pork:

- a) invoice number;
- b) date of sale;
- c) internal product identification number;
- d) manufacturer product code (e.g., UPC, SKU, or other identifying code associated with the item);
- e) manufacturer identification number;
- f) manufacturer that supplied you the items sold, and the brand (including private label brands) under which the item was labeled by the manufacturer;
- g) indicator of private label brands;
- h) the grade, cut, product form, and/or type of Pork;
- i) product description;
- j) any data field related to product types or product categories;
- k) quantity sold;
- l) unit of measurement for quantity sold;
- m) quantity measure (e.g., live weight, carcass weight, retail weight, etc.);
- n) unit converter (if applicable);
- o) transaction type (e.g., sale, return, exchange);

- p) all pricing and fee information related to the sale, including unit price, freight, tax, or similar charges (USD);
- q) unit of measure for any price fields (e.g., dollar per carcass weight pound);
- r) any invoice-level chargebacks, discounts, rebates, credits, freight allowances, free goods and/or services;
- s) cost of goods sold (“COGS”) (USD), including a definition/description of how you calculated COGS;
- t) cost of the meat in the Pork product;
- u) cost of the entire Pork product;
- v) any data fields for any other fixed or variable costs or costs associated with the Pork sold;
- w) gross sale amount (USD);
- x) net sale amount (USD);
- y) customer group identification number;
- z) customer group name and description (e.g., university, prison, caterer);
- aa) distributor name and description;
- bb) customer identification number;
- cc) customer name;
- dd) customer address;
- ee) contract number under which the purchase was made (if applicable)
- ff) indicator of whether the sale price was negotiated by you, or if the customer negotiated it directly with the supplier;
- gg) margin added to sales in cost-plus model (if applicable);

- hh) ship-to entity identification number;
- ii) ship-to entity name;
- jj) ship-to entity address;
- kk) bill-to entity identification number;
- ll) bill-to entity name;
- mm) bill-to entity address;
- nn) bill-to entity phone number; and
- oo) bill-to entity email.

5. For the period from January 1, 2002, to the present, please provide documents and data sufficient to show the following information related to your sales of Pork and prepared foods that include Pork:

- a) Contracting methods, practices, policies, or strategies relating to Pork, including but not limited to:
 - i. all RFPs or bid documents issued by any customers;
 - ii. quotes, bids, bid announcements, or proposals issued by you to or relating to any customer;
 - iii. communications relating to negotiations with customers related to price and non-price terms of contracts; and
 - iv. contracts consummated with customers.
- b) Data relating to any off-invoice financial transactions between you and your customers (for each item, indicate the date of the transaction, type of transaction, supplier, and USD amount), including but not limited to:
 - i. chargebacks, discounts, rebates, credits, freight allowances, free

goods and/or services, cooperative marketing funds, advertising funds, promotional funds or allowances, slotting allowances; and

- ii. any other marketing assistance, support, or other off-invoice financial incentives paid.

6. All documents and data reflecting your analysis of competition in the sale of prepared foods that include Pork, including but not limited to:

- a) Assessments and analyses of prepared foods sellers with which you compete, including but not limited to other wholesale distributors and mass merchandisers; and
- b) Assessments and analyses of your (actual or prospective) customers, including if available, analyses by customer type, location within the United States, or any other dimension along which you segment customers.